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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,753	10/17/2003	Kelly J. Reasoner	10012665-4	1979

7590 10/30/2006

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EXAMINER

DINH, TAN X

ART UNIT	PAPER NUMBER
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2627

DATE MAILED: 10/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/688,753	Applicant(s) REASONER ET AL.	
	Examiner TAN X. DINH	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9 and 21-24 is/are allowed.
- 6) ☒ Claim(s) 10-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1) A Request for Continued Examination (RCE) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/24/2006 has been entered.

2) The preliminary amendment filed 8/24/2006 is acknowledged. Claim 25 has been canceled.

3) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

4) (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5) Claims 10,13,15 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by KULAKOWSKI et al (5,303,214).

KULAKOWSKI et al discloses a method as claimed in claim 10, comprising the step of:

Detecting a signal reflected from a data cartridge in a picker assembly (Fig.2, picker assembly 33, bar-code readers 40 and 53 detects a signal reflected from cartridge 22 of figure 16);

Identifying a type of the data cartridge based on the signal reflected from the data cartridge (column 6, line 24 to column 7, line 13);

Moving the picker assembly after a loading operation if the detected signal indicates the data cartridge is engaged in the picker assembly (after loading and identifying the cartridge, the picker 33 is moving along rail 37).

The feature of claim 13 is inherent in KULAKOWSKI et al's cartridge detecting device since the detecting system of KULAKOWSKI et al capable of detecting different kinds and/or types of cartridges.

System claim(s) 15 is drawn to the system corresponding to the method of using same as claimed in claim 10. Therefore, system claim 15 is rejected for the same reasons of anticipation (obviousness) as used above.

As to claim 19, KULAKOWSKI et al shows the processor interprets a bar code label on the data cartridge (bar code reader 40 and 53 read bar code label on cartridges as seen in figures 14A, 14B, 15A, 15B and 16).

6) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2627

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7) This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C.103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C.103(c) and potential 35 U.S.C.102(e), (f) or (g) prior art under 35 U.S.C.103(a).

8) Claims 11,12,14,16-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over KULAKOWSKI et al (5,303,214).

KULAKOWSKI et al discloses all the subject matter as claimed in claims 11 and 16, except to specifically show the step of moving the picker assembly after unloading. It would have been obvious to move the picker assembly after an unloading operation if the data cartridge is disengaged from the picker assembly in KULAKOWSKI et al's cartridge detecting system as claimed since picker assembly could be controlled to moved in any desirable directions during

loading (present of data cartridge) and unloading (absent of data cartridge) for performing other operations on the data storage device.

As to claims 12,14,18 and 20, it would have been obvious to modify the light detecting of KULAKOWSKI et al's cartridge detecting system by including a color-deciphering component (e.g., suitable wavelength detection and measurement hardware and the related program code, where necessary) for detecting the color of data cartridge since color-deciphering component is old and widely used in the art for determining the characteristic of a storage medium.

9) Claims 1-9 and 21-24 are allowed.

10) Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

11) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant is reminded that in amending in response to a rejection of claims (if the rejection involves with any applicable arts), the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must also show how the amendments avoid such references and objections. See 37 CFR § 1.111(c).

Form PTO-892 is attached herein.

12) Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAN XUAN DINH whose telephone number is (571)272-7586. The examiner can normally be reached on MONDAY to FRIDAY from 9:00AM to 5:00PM.

The FAX phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866)217-9197 (toll-free).



TAN DINH
PRIMARY EXAMINER

October 26, 2006